

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
YOUNGSTOWN DIVISION**

MATTHEW RICO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

LORDSTOWN MOTORS CORP.,
STEPHEN S. BURNS, RICH SCHMIDT,
and JULIO RODRIGUEZ,

Defendants.

Case No. 4:21-cv-00616

CLASS ACTION

DEMAND FOR JURY TRIAL

MERRIMAN LEGANDO
WILLIAMS & KLANG, LLC
DREW LEGANDO (0084209)
1360 W. 9th St., Suite 200
Cleveland, OH 44113
Telephone: (216) 522-9000
Fax: (216) 522-9007
drew@merrimanlegal.com

BLOCK & LEVITON LLP
JEFFREY C. BLOCK
260 Franklin St., Suite 1860
Boston, MA 02110
Telephone: (617) 398-5600
Fax: (617) 507-6020
jeff@blockleviton.com

Plaintiff Matthew Rico (“Plaintiff”), by and through his attorneys, alleges upon personal knowledge as to his own acts, and upon information and belief as to all other matters, based upon the investigation conducted by and through his attorneys, which included, among other things, a review of documents filed by Defendants (as defined below) with the United States Securities and Exchange Commission (the “SEC”), news reports, press releases issued by Defendants, and other publicly available documents, as follows:

NATURE AND SUMMARY OF THE ACTION

1. This is a federal securities class action on behalf of all investors who purchased or otherwise acquired shares of Lordstown Motors Corp. (“Lordstown” or the “Company”) (formerly known as DiamondPeak Holdings Corp. (“DiamondPeak”) securities between August 3, 2020 and March 17, 2021, inclusive (the “Class Period”). This action is brought on behalf of the Class for violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§ 78j(b) and 78t(a) and Rule 10b-5 promulgated thereunder by the SEC, 17 C.F.R. § 240.10b-5.

2. According to its website, Lordstown is an automotive company founded for the purpose of developing and manufacturing light duty electric trucks targeted for sale to fleet customers. The Company’s purported flagship vehicle is the “Endurance,” an electric full-size pickup truck. The Company is headquartered in Lordstown, Ohio.

3. On August 3, 2020, Lordstown and DiamondPeak announced that they had entered into a definitive merger agreement through which, upon closing, the combined company would remain listed on the NASDAQ stock exchange under the new ticker symbol “RIDE.” DiamondPeak was setup as a special purpose acquisition company (also known as a SPAC). DiamondPeak’s shares traded on the NASDAQ stock exchange under the ticker symbol “DPHC.”

The August 3, 2020 release provided, in relevant part that the transaction valued Lordstown “at an implied \$1.6 billion pro forma equity value,” and that the transaction as expected to deliver approximately \$675 million in gross proceeds. The release announced that the transaction was expected to close in the fourth quarter of 2020.

4. On October 22, 2020, Lordstown and DiamondPeak announced that DiamondPeak shareholders had approved the merger. On October 23, 2020, Lordstown announced that it had completed the business combination with DiamondPeak, and that beginning on October 26, 2020, Lordstown’s Class A shares would begin trading on the NASDAQ Global Select market under the ticker symbol “RIDE,” and that its warrants would trade on NASDAQ under the symbol “RIDEW.”

5. During the Class Period, and as alleged herein, Lordstown repeatedly lauded its pre-order agreements with prospective customers. Moreover, the Company stated numerous times that it was “on track” to begin production of the Lordstown Endurance in September 2021.

6. Before the markets opened on March 12, 2021, analyst Hindenburg Research published a scathing report on Lordstown entitled: “The Lordstown Motors Mirage: Fake Orders, Undisclosed Production Hurdles, and a Prototype Inferno.” As alleged in greater detail below, in this report, Hindenburg noted that Lordstown has “no revenue and no sellable product,” and wrote that the Company “has misled investors on both its demand and production capabilities.” The Hindenburg report concluded that Lordstown’s “orders are largely fictitious and used as a prop to raise capital and confer legitimacy,” and that a former employee “explained how the company is experiencing delays and making ‘drastic’ design modifications, putting [Lordstown] an estimated 3-4 years away from production,” rather than the Company being “on track” for a September 2021 production start.

7. On this news, the price of Lordstown common stock fell approximately 16.5% in one day, down from its March 11, 2021 closing price of \$17.71 to a March 12, 2021 close of just \$14.78. This represents hundreds of millions of dollars in lost market capitalization.

8. Then on March 17, 2021, after trading had closed, the Company held an earnings call on which Defendant Burns disclosed that Lordstown had received an inquiry from the SEC. Remarkably, although Lordstown also issued a press release and a Form 8-K announcing its fourth quarter and full year 2020 financial results after trading closed on March 17, 2021, the Company failed to disclose the existence of the SEC inquiry in those filings.¹ On this news, the stock fell approximately another 9% in aftermarket trading.

9. Throughout the Class Period, Defendants made materially false and misleading statements regarding the Company's business. Specifically, Defendants made false and/or misleading statements and/or failed to disclose that: (i) the Company's purported pre-orders were non-binding; (ii) many of the would-be customers who made these purported pre-orders lacked the means to make such purchases and/or would not have credible demand for Lordstown's Endurance; (iii) Lordstown is not and has not been "on track" to commence production of the Endurance in September 2021; (iv) the first test run of the Endurance led to the vehicle bursting into flames within 10 minutes; and (v) as a result, the Company's public statements were materially false and misleading at all relevant times.

JURISDICTION AND VENUE

10. The federal law claims asserted herein arise under §§ 10(b) and 20(a) of the Exchange Act, 15 U.S.C. § 78j(b) and 78t(a), and Rule 10b-5 promulgated thereunder by the SEC, 17 C.F.R. § 240.10b-5, as well as under the common law.

¹ https://www.sec.gov/Archives/edgar/data/1759546/000110465921037690/tm2110022d1_ex99-1.htm.

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331 and § 27 of the Exchange Act, 15 U.S.C. § 78aa.

12. This Court has jurisdiction over each Defendant named herein because each Defendant is an individual or corporation who has sufficient minimum contacts with this District so as to render the exercise of jurisdiction by the District Court permissible under traditional notions of fair play and substantial justice.

13. Venue is proper in this District pursuant to § 27 of the Exchange Act, 15 U.S.C. § 78aa and 28 U.S.C. § 1931(b), as the Company's headquarters are located within this District.

14. In connection with the acts, omissions, conduct and other wrongs in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to the United States mail, interstate telephone communications and the facilities of the national securities exchange.

PARTIES

15. Plaintiff Matthew Rico acquired and held shares of Lordstown at artificially inflated prices during the class period, and has been damaged by the revelation of the Company's material misrepresentations and material omissions.

16. Defendant Lordstown is an automotive company founded for the purpose of developing and manufacturing light duty electric trucks targeted for sale to fleet customers. The Company's purported flagship vehicle is the "Endurance," an electric full-size pickup truck. Shares of Lordstown common stock trade on the NASDAQ stock exchange under the ticker "RIDE." The Company's headquarters are located at 2300 Hallock Young Road, Lordstown, Ohio 44481. Lordstown is incorporated under the laws of the State of Delaware.

17. Defendant Stephen S. Burns is Lordstown's Chief Executive Officer and Chairman of the Board of Directors.

18. Defendant Rich Schmidt has served as Lordstown's President since November 2020, and prior to that, was Lordstown's Chief Production Officer since October 2019.

19. Defendant Julio Rodriguez has served as Lordstown's Chief Financial Officer since September 2019.

20. Collectively, Defendants Burns, Schmidt, and Rodriguez are referred to throughout this complaint as the "Individual Defendants."

21. The Individual Defendants, because of their positions at the Company, possessed the power and authority to control the content and form of the Company's annual reports, quarterly reports, press releases, investor presentations, and other materials provided to the SEC, securities analysts, money and portfolio managers and investors, *i.e.*, the market. The Individual Defendants authorized the publication of the documents, presentations, and materials alleged herein to be misleading prior to its issuance and had the ability and opportunity to prevent the issuance of these false statements or to cause them to be corrected. Because of their position with the Company and access to material non-public information available to them but not to the public, the Individual Defendants knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public and that the positive representations being made were false and misleading. The Individual Defendants are liable for the false statements pleaded herein.

SUBSTANTIVE ALLEGATIONS

22. According to its website, Lordstown is an automotive company founded for the purpose of developing and manufacturing light duty electric trucks targeted for sale to fleet customers. The Company's purported flagship vehicle is the "Endurance," an electric full-size pickup truck.

MATERIALLY FALSE AND MISLEADING STATEMENTS

23. The Class Period begins on August 3, 2020, when Lordstown and DiamondPeak

announced that they had entered into a definitive merger agreement through which, upon closing, the combined company would remain listed on the NASDAQ stock exchange under the new ticker symbol “RIDE.” DiamondPeak was setup as a SPAC, whose shares previously traded on the NASDAQ stock exchange under the ticker symbol “DPHC.” The August 3, 2020 release provided, in relevant part that the transaction valued Lordstown “at an implied \$1.6 billion pro forma equity value,” and that the transaction as expected to deliver approximately \$675 million in gross proceeds. The release announced that the transaction was expected to close in the fourth quarter of 2020.

24. In this August 3, 2020 announcement, Defendant Burns stated:

We are thrilled with the opportunity to build Lordstown Motors into a top-tier electric truck company that is highly differentiated from the competition. We are uniquely positioned to be a leader in the industry, with our first vehicle, the revolutionary Lordstown Endurance. Our all-electric full-size pickup truck delivers the equivalent of 75 miles per gallon and has been systematically engineered and competitively priced specifically for the large commercial fleet market, which includes companies in manufacturing, contracting, utilities, transportation and delivery, and agriculture, among others. Since its unveiling just over a month ago, the Endurance has been met with enthusiastic support, and to date, we have secured \$1.4 billion of pre-orders. Our platform is rooted in sustainability, and the entire Lordstown team is committed to ensuring we contribute to a healthier planet for generations to come.

25. This August 3, 2020 release further provided that “Lordstown unveiled the prototype of its flagship Endurance pickup truck on June 25, 2020, and to date, has received more than 27,000 pre-orders for the vehicle representing over \$1.4 billion of potential revenue, primarily from commercial fleet customers.”

26. On October 22, 2020, DiamondPeak announced that at a special meeting, DiamondPeak’s stockholders voted to approve all stockholder proposals necessary to complete the proposed business combination between DiamondPeak and Lordstown, with the merger expected to close on October 23, 2020, subject to satisfaction of customary closing conditions.

27. On October 23, 2020, Lordstown and DiamondPeak announced the closing of the business combination, and that beginning on October 26, 2020, Lordstown shares would commence trading on NASDAQ under the symbol “RIDE,” with Lordstown warrants trading under the symbol “RIDEW.”

28. In this announcement, Defendant Burns stated:

We are proud of this momentous occasion. Electrification of the automotive industry is at an inflection point, and this transaction helps us play our part in this transformation At Lordstown, we have built a differentiated company, and we look forward to combining our EV startup culture with the infrastructure and assets we already have in place in order to successfully achieve our production milestones.

Lordstown Motors, which unveiled the prototype of its flagship Endurance pickup truck in June 2020, remains on pace to commence commercial production in the second half of 2021 at its plant in Lordstown, Ohio. The Endurance’s revolutionary use of an in-wheel hub motor design is expected to deliver superior performance, efficiency, and safety, while providing a significant reduction in total cost of ownership for commercial fleet owners. We have a near production-ready plant and approximately \$675 million in proceeds from this transaction, which is more than enough funding to get us through initial production.

29. On November 12, 2020, Lordstown filed a Registration Statement on Form S-1 with the SEC, in which the Company announced its intent to sell approximately 153 million shares of Lordstown Class A common stock, including 143,666,024 shares of Class A common stock, up to 14.4 million shares of Class A common stock issuable upon exercise of warrants, and up to 5,066,667 warrants. The Company anticipated receiving gross proceeds of over \$2.5 billion from this Offering.

30. On November 16, 2020, Lordstown issued a press release providing a business update. In this release, Lordstown announced that it “Remains on Track to Begin Production of the Lordstown Endurance in September 2021.” In this release, Lordstown detailed several “[n]otable developments,” including:

- **Lordstown Motors has received approximately 50,000 non-binding production reservations** from commercial fleets for its Lordstown all-electric pickup truck, with an average order size of approximately 500 vehicles per fleet. This figure does not capture interest the company has received from organizations that are not in position to be able to place pre-orders, such as federal, state and municipal governments, and military fleets. Deliveries of the Lordstown Endurance are expected to begin in September 2021, with full production ramping up throughout 2022.
- **Lordstown Motors is currently building and testing Alpha 2 prototypes of the Endurance**, incorporating learnings from the successful Alpha 0 prototype vehicle, as the company continues to prove out its technology. Lordstown Motors is also preparing to build its Beta series prototypes beginning in early 2021 using the production lines at the Lordstown, Ohio plant. The company expects to produce 40 to 50 Beta prototype vehicles, which will be used for crash, engineering and validation testing. The company also expects some of these vehicles may be sent to some initial customers for their feedback. The Lordstown Endurance has already achieved a 5-Star crash test rating via software crash simulation.
- **Lordstown Motors expects to increase its internal headcount to 500 individuals by the end of 2020 and to 1,500 employees by the end of 2021.** The company currently employs more than 250 individuals in the areas of manufacturing, engineering, marketing, sales, facilities, human resources, IT, supply chain, accounting and finance. These employees are engineering the Endurance and preparing the plant for mass production. Lordstown Motors has also engaged approximately 150 contractors. Individuals interested in careers with Lordstown Motors Corp. can [click here](#).
- **This week, Lordstown Motors will officially open a satellite research and development center in Farmington Hills, Michigan.** This facility will include space for vehicle inspection and benchmarking, as well as labs for testing, validation and prototyping. Lordstown Motors understands that automotive engineering talent in the Detroit area is world-renowned and, with this new R&D Engineering Center, expects to access the deep automotive engineering talent pool and numerous automotive supplier partners that exist in the region.
- **Later this month, Lordstown Motors will open a service center in Irvine, California, in what will be its first service center outside of Ohio.** The facility, combined with the company's mobile service, will enable Lordstown Motors to service commercial users in the southern California region. The company has chosen California as the location for its first service center outside of Ohio due to the favorable regulatory backdrop in

the state, which is aggressively promoting more widespread adoption of electric vehicles.

- **Construction has begun on a 700,000 square foot battery pack and hub motor production facility at Lordstown Motors' 6.2 million square foot Ohio headquarters.** Completion of the first stage of this facility is expected in time for Start of Production of the Endurance in 2021. When completed, Lordstown Motors expects the facility to be one of the largest of its kind in the United States.

31. On December 1, 2020, the SEC declared Lordstown's Registration Statement effective, and on December 4, 2020, Lordstown filed a Prospectus with the SEC on Form 424B3 announcing that it would sell up to 143,666,024 shares of Class A Common Stock, up to 14.4 million shares of Class A Common Stock Issuable Upon Exercise of Warrants, and up to 5,066,667 warrants.

32. On January 11, 2021, Lordstown issued a press release announcing that it had "surpasse[d] 100,000 pre-orders for the Lordstown Endurance." In this release, Defendant Burns stated: "[r]eceiving 100,000 pre-orders from commercial fleets for a truck like the Endurance is unprecedented in automotive history Adding in the interest we have from federal, state, municipal and military fleets on top of that, I think you can see why we feel that we are about to revolutionize the pickup truck industry." This press release further provided that "Lordstown is now building the first Beta Endurance vehicles and is on track for start of production in September of this year."

33. On January 28, 2021, Lordstown issued a press release providing business updates, and stating that the Company was "Prepar[ing] Ohio Factory to Begin Building Betas Next Month." Defendant Burns stated that "[w]e are hard at work in the factory preparing to begin Beta builds in the coming weeks," and that "[w]ith this step on the horizon, we remain on track to meet our September start-of-production timeline while continuing to see indicators of strong demand

for an all-wheel drive, full-size electric pickup truck with 250 miles of range from commercial, government and military fleets.” Among the “[n]otable developments” stated by Lordstown were:

- **Lordstown Motors has initiated the metal stamping and welding for the first 57 Endurance Beta prototypes of the Endurance and expects to complete the first Beta vehicles on schedule in March.** The Beta series prototypes will be used for crash, engineering and validation testing. The company also expects some of these vehicles may be sent to some initial customers for their feedback. The Lordstown Endurance has already achieved a 5-Star crash test rating via software crash simulation.
- **Lordstown Motors has added to its long-term, high-quality battery cell supply chain.** Lordstown Motors recently signed a multi-year supplier agreement with LG Energy Solution, a global leader in battery cell technology, broadening Lordstown Motors’ high-quality, diverse battery cell supply chain that will power the Endurance for years to come.
- **Evaluation of the first Camping World / Lordstown Endurance Service Centers continues.** In addition to Lordstown Motors-owned service centers, such as the newly opened facility in Irvine, California, the company is continuing its review of plans to utilize Camping World’s extensive footprint and service expertise to ensure nationwide service coverage for all Lordstown vehicles.
- **The Lordstown Motors Electric Van is in development with plans to be unveiled in June and production starting in the second half of 2022.** Based on the Endurance platform, the van will utilize hub motors to achieve all-wheel drive and low ground clearance, and have a class-leading range. An initial use case of the van will be as the world’s first production all-electric RV, produced in partnership with Camping World. The van will be priced competitively with comparable internal combustion-based vans.
- **Lordstown Motors has been added to the United States General Services Administration listing,** the first step towards being able to sell to government fleets. With this step complete, the company has started its outreach to state and local government entities, including the U.S. Military. The company believes these markets represent a significant opportunity for the Endurance and follow-on products.
- **Construction continues on an 800,000 square foot propulsion renovation at Lordstown Motors’ 6.2 million square foot Ohio headquarters.** Completion of the first stage of the previously announced facility, which will house production lines for advanced battery packs and hub motors, is expected in time for the planned start of production of the

Endurance in 2021. When completed, Lordstown Motors expects the facility to be one of the largest of its kind in the United States.

34. On February 17, 2021, Lordstown issued a press release announcing that it had entered the Endurance Beta skateboard in the 2021 SCORE International San Felipe 250, part of the SCORE World Desert Championship race series. In this release, the Company stated that “[a]fter successful prototype and Alpha builds, Lordstown is now building the first Beta Endurance vehicles and is on track for start of production in September of this year.”

35. On February 23, 2021, in an interview with Yahoo! Finance Live, Defendant Burns stated: “[o]ur initial foray is into fleets, and we have pre-sold 100,000 of these vehicles to various fleets across America – really a big appetite.” He continued: “[y]ou’ve got a fleet using a 17-mile per gallon pickup truck for the last 30 years and we come out with one that gets the equivalent of 75 miles per gallon. There is a lot of demand and excited about it.”² This article further provided that Defendant “Burns said production for the Endurance will begin in September. That will make the Endurance the first all electric pickup truck on the market”

36. The statements identified above were materially false and misleading and failed to disclose material facts about the Company’s business, operations, and prospects. As discussed below, the Defendants misled investors by misrepresenting and omitting to disclose that: (i) the Company’s purported pre-orders were non-binding; (ii) many of the would-be customers who made these purported pre-orders lacked the means to make such purchases and/or would not have credible demand for Lordstown’s Endurance; (iii) Lordstown is not and has not been “on track” to commence production of the Endurance in September 2021; (iv) the first test run of the Endurance

² <https://finance.yahoo.com/news/lordstown-motors-ceo-we-have-pre-sold-100000-electric-pickup-trucks-174316742.html> (last visited March 15, 2021).

led to the vehicle bursting into flames within 10 minutes; and (v) as a result, the Company's public statements were materially false and misleading at all relevant times.

37. The statements described in ¶¶ 24-25, 28, 30, and 32-25 were materially false and misleading and failed to disclose material adverse facts about the Company's business, operations, and prospects.

THE TRUTH EMERGES

38. Before the markets opened on March 12, 2021, analyst Hindenburg Research published a report entitled "The Lordstown Motors Mirage: Fake Orders, Undisclosed Production Hurdles, and a Prototype Inferno." In its report, Hindenburg continued that "Lordstown is an electric vehicle SPAC with no revenue and no sellable product, which we believe has misled investors on both its demand and production capabilities. The company has consistently pointed to its book of 100,000 pre-orders as proof of deep demand for its proposed EV truck. Our conversations with former employees, business partners and an extensive document review show that the company's orders are largely fictitious and used as a prop to raise capital and confer legitimacy."

39. Hindenburg provided examples to support these statements. It wrote, "[f]or example:

Lordstown recently announced a 14,000-truck deal from E Squared Energy, supposedly representing \$735 million in sales. E Squared is based out of a small residential apartment in Texas that doesn't operate a vehicle fleet. Another 1,000 truck, \$52.5 million order comes from a 2-person startup that operates out of a Regus virtual office with a mailing address at a UPS Store. We spoke with the owner who acknowledged it won't actually order any vehicles, instead describing the "pre-order" as a mere marketing relationship. Yet another firm that is supposedly set to buy 500 trucks from Lordstown told us: "... The letters of interest are non-binding. It's not like you'd obligate yourself to a pre-order or that you would contractually bind yourself to buying this truck. That's not what they are."

40. Hindenburg continued that “[f]ormer employees and litigation records reveal that in order to raise capital and confer credibility, [Defendant] burns began paying consultants for every truck pre-order as early as 2016 while he was serving as CEO at Workhorse. Later, heading into Lordstown’s eventual go-public transition in 2020, a small consulting group called Climb2Glory was paid to generate pre-orders.” Indeed, “[o]ne company rep that committed to buy 40 trucks through Climb2Glory told us: ‘... I’m not committed to anything, not to buying a single vehicle. I committed to consider buying vehicles. I’d have a lot of questions before I commit to anything.’” Moreover, “a representative for the City of Ravenna told us about its preorder” that “[t]he commitment of that size (15) is totally impossible.”

41. Hindenburg further wrote that “[m]ultiple former senior employees who have worked with [Defendant] Burns openly described him as a ‘con man,’ or a ‘PT Barnum’ figure. One senior employee told us that, while working with [Burns] for a couple of years, they saw more questionable and unethical business practices than they had seen in their entire career.”

42. Not only did Hindenburg write that Lordstown’s pre-orders were overstated and misleading, but it also wrote:

- Despite claims that Lordstown will be producing vehicles by September, a former employee explained how the company is experiencing delays and making “drastic” design modifications, putting them an estimated 3-4 years away from production. For example, in mid-January the company “totally switched from a plastic exterior to aluminum,” we were told.
- Despite claims that battery packs would be manufactured in-house, we were told that the equipment is months away from arriving, let alone being put into a production environment. In the meantime, we were told that battery packs are being put together by hand.
- Former employees also shared that the company has completed none of its needed testing or validation, including cold weather testing, durability testing, and Federal Motor Vehicle Safety Standards (FMVSS) testing required by the NHTSA.

- In January 2021, Lordstown's first street road test resulted in the vehicle bursting into flames 10 minutes into the test drive. We share copies of the 911 call and a police report we received through FOIA requests.

43. Hindenburg further wrote that:

Our research has revealed that Lordstown's order book consists of fake or entirely non-binding orders, from customers that generally do not even have fleets of vehicles. According to former employees and business partners, CEO Steve Burns sought to book orders, regardless of quality, purely as a tool to raise capital and confer legitimacy. In addition, we show how, in desperation to claim there was demand for the proposed vehicle, [Burns] **paid for customers to book valueless, non-binding pre-orders.**

(Emphasis in original).

44. The Hindenburg report quoted a former sales representative for the Lordstown Endurance, who stated:

You're right to have some apprehension. I think the way it's being communicated especially to the media is probably not accurate. Everywhere I read is pre-orders, pre-orders, pre-orders. **There's no such thing as a preorder. What they're doing is getting letters of intent and there is no commitment whatsoever.** I could commit to 100,000 pre-orders or reservations but I have no commitment, no financial commitment, no nothing I hope they can get all 100,000 of them but I think that's extraordinarily unlikely.

(Emphasis in original).

45. The Hindenburg report also included a quote from Climb2Glory's managing partner, Pat Mangin, from a phone interview: "[b]ecause of the letters of intent from Climb2Glory and some marketing, Diamond Group came to the table and they did the reverse merger. So our role was to help influence and acquire interest that would lead to investment. That was Climb2Glory's role." Mangin further explained that initially Climb2Glory represented the Endurance for "contract dollars," but later took a stake in Lordstown: "[w]e did get a significant amount of shares in the deal so what we do now is we still leverage our network."

46. Hindenburg detailed numerous additional purported “pre-orders” that “appear similarly meaningless,” including purported deals with First Energy, Momentum Groups, Summit Petroleum Inc., Mike Albert Fleet Solutions, Grid-X, and the City of Ravenna.

47. The Hindenburg report further detailed what happened with the first road test for the Endurance: it burst into flames. Hindenburg stated that it obtained copies of the 911 call and a police report via FOIA requests. The police report provided that “the vehicle was a 2021 Lordstown Endurance that had cleared testing inside of the facility,” that “this was the first road test for the Endurance,” and that the vehicle had been “driv[en] . . . for about ten minutes before it caught on fire.”

48. In its report, Hindenburg relayed its conversation with a former Lordstown employee “who was intimately familiar with the path toward production. They explained that Lordstown has built fewer than 10 prototypes so far, and that the company is still making extensive modifications.” This former employee also detailed that in mid-January 2021, Lordstown “totally switched from a plastic exterior to aluminum” to reduce weight; the former employee called this change “drastic” and suggested that this would, as relayed by Hindenburg, “essentially restart any testing and validation process.”

49. This same former employee also explained that Lordstown had not completed any of its required testing and validation, including: “[c]old weather testing, which typically takes about 3 months and had not begun”; “[a] ‘million mile’ test or similar durability test done by major automakers,” which typically “requires 6 months of 24/7 testing”; or “[m]ajor testing required for the Federal Motor Vehicle Safety Standards (FMVSS) by the NHTSA.”

50. Hindenburg also quoted a senior UAW leader, who worked for decades at the Lordstown plant for GM, who stated: “I know they’re way behind. If nothing else went wrong then

Covid threw them way behind They can't fire up the old machines. Some of them they can. But everything else has to be reprogrammed and some of it has to be rebuilt." This union leader also stated: "It's not ready. It is not ready. They showed some stuff on TV in the body shop with the robots that do the welding. But if you never worked in a body shop you didn't realize they weren't working. They were moving but not welding. There were no sparks."

51. On this news, the price of Lordstown common stock fell approximately 16.5% in one day, down from its March 11, 2021 closing price of \$17.71 to a March 12, 2021 close of just \$14.78. This represents hundreds of millions of dollars in lost market capitalization.

52. On March 17, 2021, after trading had closed, the Company held an earnings call on which Defendant Burns disclosed that Lordstown had received an inquiry from the SEC. Remarkably, although Lordstown also issued a press release and a Form 8-K announcing its fourth quarter and full year 2020 financial results after trading closed on March 17, 2021, the Company failed to disclose the existence of the SEC inquiry in those reports. On this news, the stock fell approximately another 9% in aftermarket trading.

CLASS ACTION ALLEGATIONS

53. Plaintiff brings this action as a class action pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of a class of all persons and entities who purchased or otherwise acquired Lordstown securities between August 3, 2020 and March 17, 2021, inclusive. Excluded from the Class are Defendants, directors and officers of the Company, as well as their families and affiliates.

54. The members of the Class are so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties and the Court. Throughout the Class Period, Lordstown securities were actively traded on the NASDAQ stock exchange. While the exact number of Class members is unknown to

Plaintiff at this time and can be ascertained only through appropriate discovery, Plaintiff believes there are thousands of members in the proposed Class.

55. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class which predominate over questions which may affect individual Class members include:

- a. Whether Defendants violated the Exchange Act;
- b. Whether Defendants omitted and/or misrepresented material facts;
- c. Whether Defendants' statements omitted material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading;
- d. Whether Defendants knew or recklessly disregarded that their statements were false and misleading;
- e. Whether the price of the Company's shares was artificially inflated; and
- f. The extent of damage sustained by Class members and the appropriate measure of damages.

56. Plaintiff's claims are typical of those of the Class because Plaintiff and the Class sustained damages from Defendants' wrongful conduct alleged herein.

57. Plaintiff will adequately protect the interests of the Class and has retained counsel who are experienced in class action securities litigation. Plaintiff has no interests that conflict with those of the Class.

58. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

FRAUD ON THE MARKET

59. Plaintiff will rely upon the presumption of reliance established by the fraud-on-the-market doctrine that, among other things:

- a. Defendants made public misrepresentations or failed to disclose material facts during the Class Period;
- b. The omissions and misrepresentations were material;
- c. The Company's shares traded in efficient markets;
- d. The misrepresentations alleged herein would tend to induce a reasonable investor to misjudge the value of the Company's shares; and
- e. Plaintiff and other members of the class purchased the Company's shares between the time Defendants misrepresented or failed to disclose material facts and the time that the true facts were disclosed, without knowledge of the misrepresented or omitted facts.

60. At all relevant times, the markets for the Company's shares were efficient for the following reasons, among others: (i) the Company filed periodic public reports with the SEC; and (ii) the Company regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases on the major news wire services and through other wide-ranging public disclosures such as communications with the financial press, securities analysts, and other similar reporting services. Plaintiff and the Class relied on the price of the Company's shares, which reflected all information in the market, including the misstatements by Defendants.

NO SAFE HARBOR

61. The statutory safe harbor provided for forward-looking statements under certain conditions does not apply to any of the allegedly false statements pleaded in this Complaint. The specific statements pleaded herein were not identified as forward-looking statements when made.

62. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements.

LOSS CAUSATION

63. Before the markets opened on March 12, 2021, analyst Hindenburg Research published its report on Lordstown as alleged herein. On this news, the price of Lordstown common stock fell approximately 16.5% in one day, down from its March 11, 2021 closing price of \$17.71 to a March 12, 2021 close of just \$14.78. This represents hundreds of millions of dollars in lost market capitalization.

64. On March 17, 2021, after trading had closed, the Company held an earnings call on which Defendant Burns disclosed that Lordstown had received an inquiry from the SEC. On this news, the stock fell approximately another 5% in aftermarket trading.

65. These revelations contradicted statements made by Defendants during the Class Period, and revealed information omitted by Defendants during the Class Period, and were thus a causal element of the concurrent decline in the Company's share price.

Count One **Violations of § 10(b) of the Exchange Act and Rule 10b-5 Promulgated Thereunder** **(Against All Defendants)**

66. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

67. During the Class Period, Defendant Lordstown and the Individual Defendants disseminated or approved the false statements specified above, which they knew or deliberately disregarded were misleading in that they contained misrepresentations and failed to disclose material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

68. Defendant Lordstown and the Individual Defendants violated § 10(b) of the Exchange Act and Rule 10b-5 in that they (i) employed devices, schemes, and artifices to defraud; (ii) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon those who purchased or otherwise acquired the Company's securities during the class period.

69. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for the Company's shares. Plaintiff and the Class would not have purchased the Company's shares at the price paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by Defendants' misleading statements.

Count Two
Violation of § 20(a) of the Exchange Act
(Against the Individual Defendants)

70. Plaintiff repeats and re-alleges each and every allegation contained above as if fully set forth herein.

71. The Individual Defendants acted as controlling persons of the Company within the meaning of § 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions at the Company, the Individual Defendants had the power and authority to cause or prevent the Company from engaging in the wrongful conduct complained of herein. The Individual Defendants were provided with or had unlimited access to the documents described above that contained statements alleged by Plaintiff to be false or misleading both prior to and immediately after their publication, and had the ability to prevent the issuance of those materials or to cause them to be corrected so as not to be misleading.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

(a) determining that this action is a proper class action pursuant to Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of the Class as defined herein, and a certification of Plaintiff as class representative pursuant to Rule 23 of the Federal Rules of Civil Procedure and appointment of Plaintiff's counsel as Lead Counsel;

(b) awarding compensatory and punitive damages in favor of Plaintiff and the other class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including pre-judgment and post-judgment interest thereon.

(c) awarding Plaintiff and other members of the Class their costs and expenses in this litigation, including reasonable attorneys' fees and experts' fees and other costs and disbursements; and

(d) awarding Plaintiff and the other Class members such other relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury in this action of all issues so triable.

Dated: March 18, 2021

Respectfully submitted,

/s/ Drew Legando

Drew Legando (0084209)

MERRIMAN LEGANDO WILLIAMS &
KLANG, LLC

1360 West 9th St., Suite 200

Cleveland, OH 44113

Telephone: (216) 522-9000

Fax: (216) 522-9007

drew@merrimanlegal.com

Local Counsel

Jeffrey C. Block (*pro hac vice* forthcoming)

BLOCK & LEVITON LLP

260 Franklin Street, Suite 1860

Boston, MA 02110

(617) 398-5600 phone

(617) 507-6020 fax

jeff@blockleviton.com

*Attorneys for Plaintiff and Proposed Lead
Counsel*